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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/017,385	12/14/2001	Douglas Paul Allard	11533.0012.CPUS05	6843

7590

03/06/2003

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EXAMINER

PECHHOLD, ALEXANDRA K

ART UNIT

PAPER NUMBER

3671

DATE MAILED: 03/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/017,385

Applicant(s)

ALLARD ET AL.

Examiner

Alexandra K Pechhold

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 27 January 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☐ Claim(s) \_\_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☒ Claim(s) 14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**2. Claims 1-3 and 5-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Arntyr et al (US 4,419,232).**

Regarding claim 1, Arntyr discloses an apparatus comprising a:

(a) filtration device, seen as wire basket (2), dimensioned to fit in an inlet and obstructing part of the inlet,

(b) a filtration device support, seen as holder ring (1)

(c) an adjustable deflector ring connected to the filtration device support, seen as mounting flange (6), which can be viewed as one circular wall, and is adjustable in that it can be removed or lifted

Regarding claim 2, the flange (6) traverses the entire perimeter of the ring (1).

Regarding claim 3, the flange (6) contains space as shown in Figs. 1 and 3.

Regarding claim 5, the flange (6) as shown in Figs. 2 and 3 is positioned above the wire basket (2), and can be said to form a high flow bypass.

Regarding claims 6 and 7, Arntyr discloses a wire basket (2) (see abstract) formed of wire mesh panels, as shown in Figs. 1-3

Regarding claim 8, the handle (5) seen in Fig. 1 can be viewed as a support bracket, and it is indirectly attached to the catch basin. The mounting means (7) on the holder ring (1), also shown in Fig. 1, can be viewed as flanges, and are indirectly connected to the wire basket (2) and indirectly supported by handle (5).

Regarding claim 9, an initial high flow bypass can be viewed as the water flow over flange (6), and a secondary high flow bypass can be viewed as the water filtering through filtering bag (3).

Regarding claim 10, the filtering bag (3) of Arntyr can be viewed as a fluid displaceable adsorbent container. Arntyr discloses that bag (3) is suitably made of a water permeable, relatively fine mesh filter cloth (Col 3, lines 19-21), and therefore will naturally adsorb some debris. The bag (3) is displaceable since it is only secured at the top.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Arntyr et al (US 4,419,232) as applied to claim 1 above, and further in view of Singleton (US 6,261,445 B1).** Arntyr fails to disclose marking or advertising on the flange (6). Singleton teaches a marking on an enclosure for a drop inlet as shown in

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Fig. 3 for safety precautionary measures. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the flange of Arntyr to include marking or advertising as taught by Singleton, since Singleton states in column 2, lines 55-64 that such warning minimizes the risk of accidents due to persons falling or climbing into the open inlet.

**5. Claim 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arntyr et al (US 4,419,232).**

Regarding claim 11, Arntyr fails to disclose the flange (6) being adjusted to fit within a particular catch basin. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the flange of Arntyr to be adjusted to fit within a particular catch basin, since obviously not all catch basin sizes are the same, and it has been held that the provision of adjustability, where needed, involves only routine skill in the art. In re Stevens, 101 USPQ 284 (CCPA 1954).

Regarding claim 12, the flange (6) can be adjusting by lifting it up and removing it, and thereby also removing material in the basket (2) since the basket (2) is contained in the holder ring (1).

Regarding claim 13, by removing flange (6), one would also lift up wire basket (2), which contains material, and so therefore material is removed by removing the "wall" of the flange (6).

***Allowable Subject Matter***

6. Claim 14 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

7. Applicant's arguments filed 1/27/03 pertaining to the Examiner's Restriction Requirement have been fully considered but they are not persuasive. Applicant argues that no additional prior art search should be required beyond the search that will already be conducted for the elected claims. The Examiner would like to point out that even though the inventions are similar, and the area of prior art is generally similar, there is still an additional search for the dissimilar features of the inventions, which imposes a burden upon the Examiner.

***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexandra Pechhold whose telephone number is (703) 305-0870. The examiner can normally be reached on Mon-Thurs. from 8:00am to 5:30pm and alternating Fridays from 8:00am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached on (703)308-3870. The fax phone number for this Group is (703) 305-3597.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1113.

  
Thomas B. Will  
Supervisory Patent Examiner  
Group 3600

AKP  
2/25/03